

SMART RETAILER/AGENT CONTRACT

1. The Retailer SIM assigned to the Retailer: _____, shall be the Distributor’s responsibility. The Retailer, acting as an Agent of the SMARTLoad Service, is liable for the Retailer SIM and will strictly abide by the guidelines and procedures on the issuance of the Retailer SIM and the terms and conditions of the SMARTLoad Service (this “Contract”).
2. It is hereby understood and agreed that the SMARTLoad Service is received in trust from SMART and shall remain as the property of SMART. Within three (3) days from the order or demand of SMART, Retailer undertakes to return the Retailer SIM received, should Retailer fail to comply with this Contract.
3. Retailer acknowledges and agrees that the SMARTLoad Service was provided by SMART specifically for the purpose of wireless loading. Prudence will be exercised to limit text messages to business transactions only. SMART reserves the right to disable the SMARTLoad Service should it, in its sole discretion, determine that Retailer violated the terms of this Contract or used the Retailer SIM for any other purpose other than that intended in this Contract.
4. SMART is the legal owner of the SMARTLoad Service and reserves the right to cancel/ terminate this Contract as it deems fit.

<p>1. DEFINITION</p>	<p>Contract – this SMART Retailer/Agent Contract entered into by the Retailer and SMART.</p> <p>Dealer Card Account – a SMART Card Account issued to the Distributor/ Key Accounts where Value Credits purchased are loaded.</p> <p>Dealer SIM – a prepaid SIM with a Transfer Function Menu that allows Distributor/ Key Accounts to transfer Value Credits to Retailer/Agent; and a Load Function Menu that allows the Distributor/ Key Account to load Value Credits directly to Subscribers.</p> <p>Distributor/Key Account – business entity with the expertise, and access to certain channels, for the distribution and pipelining of SMART’s prepaid products and services in regions, locations and channels specified by SMART.</p> <p>Load Wallet – An account to which Value Credits are loaded to enable Dealers and Sub-dealers to load Value Credits directly to subscribers.</p> <p>PIN – Personal Identification Number; any digit number chosen by a customer, as may be applicable.</p> <p>Prepaid Phone Balance Account – Value Credits loaded in the Cell Phone. Retailer SIM – a prepaid SIM with a Load Function Menu that allow Retailer/Agent to load Value Credits to Subscribers.</p> <p>Retailer/Agent – an agent of SMART to whom a Retailer SIM is issued and whose name appears on the signed information sheet, as may be applicable, and deals directly with a Distributor.</p> <p>SIM - Subscriber Identity Module; a term referring to Dealer SIM and Retailer SIM as a whole.</p>
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	<p>SMART – SMART Communications, Inc.; Cellular Mobile Telephone System (CMTS) service provider which offers Prepaid subscriptions (SMART Prepaid, SMART Bro Prepaid, and TNT).</p> <p>SMARTLoad Service – a service that loads Value Credits to Subscriber via the use of an electronic device such as but not limited to, mobile phones, point of sales “POS” terminals and computers.</p> <p>Statement of Transactions – a report generated by SMART of a list of transactions made by a Distributor in his Load Wallet covering a specific time period.</p> <p>Value Credits – amount that may be loaded to the Dealer Card Account, Load Wallet or Prepaid-Phone Balance Account to purchase airtime and other services, as determined by SMART.</p>
<p>2. THE SIM</p>	<p>The Retailer SIM issued becomes the property of the Retailer and is non-transferable. SMART may, however, suspend or terminate the use of the Retailer SIM for SMARTLoad Service for whatever reason it deems fit. In the event of any suspension or termination of the SIM for the SMARTLoad Service, the Retailer agrees to hold SMART free and harmless from any claim, damages, loss, expense, suit or liability whatsoever, arising from such suspension or termination.</p> <p>The SMART Prepaid GSM service shall be permanently disconnected if the Retailer fails to load another SMART Call and Text and/or SMARTLoad value within 150 days after the last card or load balance is completely consumed. SMART shall not cause the reconnection of a permanently disconnected SMART Prepaid GSM service.</p> <p>Retailer shall request for SMART Retailer SIM from SMART. SMART shall oblige Distributor/ Key Accounts to ensure that the Retailer accomplish and submit an information sheet for each SIM provided. SMART shall conduct business directly with its accredited distributor and key account partners. All concerns, complaints, inquiries and/or disputes from Retailer/Agent shall be handled by its accredited trade partners.</p>
<p>3. LOADING SERVICES</p>	<p>Retailer/Agent shall request for Value Credits from Distributor/ Key Accounts.</p> <p>Value Credits in Load Wallet are used to load Value Credits to Subscribers.</p> <p>Dealer and/or Sub-dealer shall transfer Value Credits to the Retailer/Sub-Key Accounts Load Wallet.</p>
<p>4. FEES, RATES & OTHER CHANGES</p>	<p>Retailer agrees to pay a fifty pesos (PHP50.00) dormancy charge for 150 days inactivity (“Period of Inactivity”) and shall be deducted from the remaining Retailer’s load wallet balance, as may be applicable, in relation to the SMARTLoad Service that may be imposed by SMART at its option.</p> <p>Fees and other charges, as may be applicable, shall be debited from the Retailer Load Wallet balance. The amount of fees and charges may be revised from time to time as SMART may deem necessary.</p>

	<p>A monthly dormancy fee in such amounts as may be fixed by SMART shall be charged to a Retailer if there are no transactions 30 days from the Period of Inactivity and every 30 days thereafter.. The Retailer agrees that the dormancy fee shall be debited from their Load Wallet Balance when the fee is due. The amount of the dormancy fee may be revised from time to time as SMART may deem necessary.</p> <p>When the Retailer Load Wallet balance reaches zero pesos (PHP0.00) after successive deductions of the monthly dormancy fee and remains at zero pesos (PHP0.00) for another 150 days, SMART will terminate the SMARTLoad Service. The Retailer SIM will be deemed disconnected and will be reclassified as a regular subscriber SIM, which, will be subject to subscriber SIM terms and conditions.</p>
<p>5. SENDING STATEMENT TRANSACTIONS</p>	<p>Upon Retailer request, SMART shall send a copy of the Statement of Transactions either via mail, fax or email. The mere act of SMART in sending the Statement of Transactions through the mode and to the address indicated by the Retailer is conclusive presumption that Retailer has received the same. SMART shall be free and harmless from any and all liability should the Statement of Transactions be read by a person other than the Retailer. Neither may Retailer thereafter raise the defense that he/she failed to receive the Statement of Transactions. In all instances, Retailer may inquire about the Statement of Transactions by contacting the SMART Customer Service.</p> <p>SMART shall charge a fixed fee for each request for a Statement of Transaction.</p>
<p>6. DISPUTES ON TRANSFERS</p>	<p>Disputed transfer transactions shall only be credited back to Retailer's account once claim/dispute has been properly processed, investigated, and proven to be in favor of the Retailer. Retailer should submit a duly filled out Request for Reversal and send the same thru fax and or email to SMART.</p> <p>Reversals will be made only upon proper verification and validation. The details in the SMS/Text confirmation message after every transaction and/or the entries in the Statement of Transactions are presumed true and correct unless Retailer notifies SMARTLoad Hotline in writing of any disputes thereon within thirty (30) days from the date of transaction. If no dispute is reported within the said period, all transactions and the entries in the Statement of Transactions are conclusively true and correct.</p>
<p>7. DISPUTES ON LOADS</p>	<p>Load transactions made by a Retailer will be considered final and will not, in any way, be reversed by SMART should Retailer load it to a wrong mobile phone number.</p> <p>Retailer may request for cancellation/termination of the SMARTLoad Service, provided Retailer has already submitted the filled-up information sheet to its Distributor/ Key Accounts. Distributor/ Key Accounts should have forwarded the information sheet to SMART. Using the information provided, SMART shall validate the request using standard identification procedures.</p> <p>Otherwise, SMART shall only act on the request for cancellation /termination of SMARTLoad Service through a written endorsement coming from the Distributor/ Key Accounts.</p>

8. PHONE & SIM SECURITY	All transactions made using the SIM are conclusively presumed to be made by the Retailers and he/she shall be liable for such.
9. LOSS OF PHONE AND SIM	<p>The security and proper care of the SIM, as well as the confidentiality of his PINs shall be the Retailer's sole responsibility.</p> <p>In case of loss of SIM by Retailer, the Distributor shall immediately inform SMART Customer Service of such loss within twenty-four (24) hours, via telephone or thru a written report. Cancellation of the SIM shall be processed only upon proper authentication of the phone call or the signature in the written report, as the case may be. All transactions made thru the use of the SIM prior to the cancellation shall continue to be the liability of the Retailer.</p>
10. RENEWAL, REINSTATEMENT, CANCELLATION	<p>The Retailer shall not use the SIM without the approval of SMART. SMART has the sole option to suspend or cancel a particular SIM. A SIM, which has been suspended by SMART, may be reinstated by the latter at its option.</p> <p>The Retailer's continued use after its suspension, termination or expiration shall be considered a fraudulent act and may be a ground for court action.</p> <p>SMART reserves the right to cancel/ suspend, temporarily or permanently, any SMARTLoad Service that remains inactive over a fixed period of time, as determined by SMART.</p>
11. TERMINATION	Should the Retailer fail to comply with the Terms & Conditions provided herein or should Retailer die or become insolvent, however evidenced, or should SMART make a determination that Retailer's use of the SIM is or may be detrimental to SMART, its subscribers or the public in general, the right to use the SIM and the SMARTLoad Service shall be terminated. Any aggregate and unpaid charges, fees and other expenses for which the Distributor is liable shall immediately become due without need of demand.
12. CHANGE OF TELEPHONE NUMBER/ ADDRESS	Retailer shall immediately notify SMART Customer Service via telephone or a written notice of any change in his residence, office or mailing address and/or telephone number/s.
13. CHANGE OF NAME	Retailer shall immediately notify SMART Customer Service via a written notice of any change in name. He shall likewise attach the necessary documents, such as but not limited to SEC certificate, as proof or evidence of such change.
14. EXCLUSION FROM LIABILITY	<p>SMART shall not be liable for any loss, costs, compensation, damage or liability to the Retailer or third party arising directly or indirectly as a result of any or all of the following:</p> <p>Distributor is unable to perform or complete any transaction thru the use of Phone due to service/system/line unavailability.</p> <p>Any delay, interruption or termination of the Service whether caused by administrative error, technical, mechanical, electrical or electronic fault or difficulty or any other reason or circumstance beyond SMART's control (including but not limited to acts of God, strike, lightning, interference or damage by third parties or any change in legislation).</p>

	Theft or unauthorized use of the SIM or any loss, costs, damages or payable to any third party by the Retailer.
15. LIMITATION OF LIABILITY	In the event of any action that the Retailer may file against SMART, the Retailer agrees that SMART's liability shall not exceed PHP1,000.00 or the amount of damages actually suffered by the Distributor, whichever is lower.
16. DISCLOSURE	SMART shall keep all Retailer files in strictest confidence. SMART may, however, obtain, exchange, or release information to its associates, affiliates, officers, employees, authorized agents, lawyers, Prepaid/debit/credit bureaus, or any such persons as SMART deems to the extent that it is reasonably necessary, or as required by law, rule, or regulation.
17. PERSONAL INFORMATION AND BROADCAST SERVICES	<p>Retailer agrees and consents to the disclosure and the processing either by SMART or by its authorized third parties on behalf of SMART, of the Retailer's personal information and data, including personal information, traffic, billing data, location, and interests for marketing and other purposes.</p> <p>Retailer agrees to the maintenance of such data by SMART or by third parties on behalf of SMART, in their records throughout their engagement for a period of six (6) months, unless retention for a longer period is required for reasonable cause.</p> <p>Retailer also understands that he is afforded certain rights in relation to his personal data under the Data Privacy Act of 2012, including the right to object to processing, the right to access his data, the right to rectification of inaccurate data, and the right to erasure or blocking of data.</p> <p>Retailer acknowledges and agrees that SMART may send him commercial and promotional advertisements, surveys, and other broadcast push messages.</p> <p>Specifically, Retailer agrees and consents that SMART and its affiliates may use Retailer personal information and data to:</p> <ul style="list-style-type: none"> a) Manage Retailer account, carry out customer-care activities and train staff, including monitoring calls, emails or text messages that the Retailer sends to SMART; b) Monitor the quality and security of the network and test and maintain SMART's IT systems; c) Analyze Retailer's use of the services for marketing purposes, including, but not limited to, the calls and messages the Retailer sends and receives, and Retailer location at the time these communications take place, as well as Retailer browsing history and use of SMART websites; d) Send to emergency services (if Retailer makes an emergency call), including Retailer's approximate location; and e) Contact the Retailer with marketing messages such as commercial and promotional advertisements, surveys, and other broadcast push messages, which may include marketing.

	<p>SMART does not include Retailer details in any directory or directory-enquiry service. If Retailer wants to have Retailer information included in these services, Retailer should contact SMART.</p> <p>If Retailer does not wish for his personal information and data to be disclosed to third parties, or the processing of the same or to receive marketing messages and other messages from SMART or from other organizations, Retailer can opt out of this privacy policy by texting “NO” and sending to 3727. More details on how SMART uses personal information and data of the Retailer are available on the Privacy Policy of the SMART website.</p> <p>For more information on the list of SMART’s subsidiaries and partners, please visit http://SMART.com.ph/Corporate/privacy.</p>
<p>18. FRAUDULENT AND UNAUTHORIZED USE</p>	<p>If the Retailer or any other person, at the sole discretion of the Company, is found to use the Service for any fraudulent purpose or illegal activity, or is found to use abusive and/or Indecent language to other Retailers, Subscribers or Company staff, or has submitted an application for Subscription through fraudulent means or has supplied any false/ wrong information in connection with such application, the Company reserves the right to immediately disconnect the Service without prior notice and/or refuse to reconnect the Service. The Company also reserves the right to file the appropriate legal action against the erring Retailer or person concerned, and to charge the appropriate pre-termination fee, if any. The Retailer’s right to use the Service is personal to the Retailer.</p> <p>The Retailer shall not engage in the following activities:</p> <ul style="list-style-type: none"> a) Resale or any other commercial use of the Service without the prior express written consent of the Company; b) Utilization of the Service in bypassing or in activity/ies that tend to bypass the SMART network, billing and/or traffic routing; c) Use of the Service in prohibited activities like callback, dialback, unauthorized audiotext, international and national simple resale (ISR/NSR) and other similar services; or d) Tampering, altering, modification, or unauthorized programming of the SIM Card or its digital reference ("Unauthorized Activities"). <p>The Retailer shall likewise be liable to the Company for any and all compensation fee on account of any of the above Unauthorized Activities and unauthorized commercial use of the Service. The compensation fee is payable, without any limitation, from the time the Unauthorized Activity occurred until the actual cessation thereof. A penalty equivalent to one hundred fifty percent (150%) of the computed revenue losses shall likewise be charged against the Retailer if proven accountable for such Unauthorized Activity. For this purpose, the Company shall have the right to full access to the relevant books and all other records of the Retailer in order to ascertain the volume of traffic and total amount of compensation fee payable. In the absence of said record, the Company shall have sole discretion in the determination of the bypass</p>

	<p>compensation. In addition to the Unauthorized Activities referred to above, the Retailer undertakes not to use the Service for any activity that is contrary to morals and public policy or which violates any ordinance, law, decree, order, regulation or treaty ("Illegal Activities"). The Retailer agrees to indemnify and hold the Company free and harmless from any liability, suit, or damage arising from or connected with the Retailer's Unauthorized Activities and/or Illegal Activities. The Retailer further authorizes the Company to supply any and all information requested by any law enforcement or government agency/ies, or other private entities, the latter within the limits provided or by law, relative to the Retailer's subscription to the Service. The Retailer hereby irrevocably and unconditionally waives any and all its relevant remedies under the law including, but not limited, to the right to claim damages.</p>
19. CORPORATE GOVERNANCE	<p>To the extent applicable to the implementation of this Contract, each party shall comply with its own internal business rules and Corporate Governance policies, and shall address or resolve violation(s) thereof in accordance with its own internal business rules and Corporate Governance policies.</p>
20. VENUE OF LIGATION	<p>Venue of all suits shall be at Makati City.</p>
21. NON-WAIVER OF RIGHTS	<p>Failure, omission, or delay on the part of SMART to exercise its right or remedies under these Terms and Conditions shall not operate as a waiver.</p>
22. SEPARABILITY CLAUSE	<p>Should any term or condition in these Terms and Conditions be rendered void, illegal or unenforceable in any respect under any law, the validity, legality and enforceability of the remaining terms and conditions shall not be affected or impaired thereby.</p>
23. AMENDMENTS	<p>SMART may at any time and for whatever reason it may deem proper, amend, revise or modify these Terms and Conditions. Any such amendment shall bind the Retailer upon notice thereof by any means unless the Retailer objects thereto by manifesting his intention to terminate the SMARTLoad Service in writing and surrendering the SIM within fifteen (15) days from notice of amendment. Failure to notify SMART of Retailer's intention to terminate the SMARTLoad Service shall be construed as acceptance by the Retailer of the amendments to these Terms and Conditions.</p>
24. AGREEMENT	<p>The Retailer agrees to be bound by these Terms and Conditions governing the issuance and use of the SIM and the use of SMARTLoad Service upon activating and loading. The provisions in these Terms and Conditions shall be applicable only in those instances where the SMARTLoad Service has been availed of by the Retailer. Should the Retailer disagree with these Terms and Conditions, the Retailer shall call or provide a written notice of cancellation to SMART Customer Service, otherwise, the Retailer shall continue to be liable for all charges incurred through the use of the SIM and the SMARTLoad Service.</p>